

United States District Court

FILED

NORTHERN

DISTRICT OF

CALIFORNIA

APR 15 2008

UNITED STATES OF AMERICA

V.

MENELAO LIBU DAVID

Venue: SAN FRANCISCO

CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CRIMINAL COMPLAINT

3 08 70223

CASE NUMBER:

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about April 3, 2008, in San Francisco County, in the Northern District of California, defendant knowingly uttered, attempted to use, and possessed a visa knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained, in violation of Title 18 United States Code, Section 1546.

I further state that I am a Customs and Border Protection Enforcement Officer and that this complaint is based on the following facts:

**See attached Affidavit in Support of Criminal Complaint**

Maximum Penalties:

Title 18 U.S.C. Section 1546:

10 years of imprisonment; \$250,000 fine; 3 years of supervised release; and \$100 special assessment fee

APPROVED AS TO FORM:

Wendy Thomas, SAUSA

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Warrant of Arrest Requested: ☒ Yes ☐ No

Bail Amount: N/A

Signature of Complainant: Marciano T. Hinagpis

Sworn to before me and subscribed in my presence,

April 15, 2008

at

San Francisco, California

Date

City and State

**James Larson**

**United States Magistrate Judge**

Name & Title of Judicial Officer

Signature of Judicial Officer



possesses, obtains, accepts, or receives any visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained”--- is guilty of a felony.

### **Case Facts and Evidence**

3. On April 3, 2008, MENELAO LIBU DAVID (“DAVID” or “Defendant”) arrived at San Francisco International Airport onboard United Airlines flight number UA888 from Beijing, China at approximately 10:59 a.m. Defendant presented a Philippine passport that was not expired (Number QQ0706349) and an expired Philippine passport (Number EE463522). The expired Philippine passport presented by Defendant included a United States tourist/business Visa (Number 31437144) (“the Visa”). Defendant presented these documents to the primary officer for admission into the United States. Defendant also presented an Arrival/Departure Form I-94 (Number 08137341817) to Customs and Border Protection (“CBP”) Officer Gilbert Lam (“Officer Lam”) along with a Customs Declaration Form 6059B. All the documents presented were in the name of MENELAO LIBU DAVID.

4. During primary inspection, Officer Lam noted that the Defendant was a match to a Treasury Enforcement and Communication System (“TECS”) record posted by the U.S. State Department and referred him to passport control secondary for verification of the record.

5. In secondary inspection, the Visa was then examined at the San Francisco International Airport forensic lab. Visual inspection of the Visa in the forensic lab under the VCS-4 wavelength lighting isolated the original admission stamp overlapping the Visa and revealed that the Visa had been altered. CBP officer Romeo Fabrigas (“Officer Fabrigas”) queried the Consular Consolidated Database (“CCD”) which revealed the Visa’s foil number (Number 31437144) was originally issued to an Alan John Self on a Great Britain and Northern Ireland (GRBR) passport (Number 700121558) on March 27, 1999. Based on this discovery and inspection it was determined that Visa was altered and had a photo substitution.

6. On April 3, 2008, Defendant was placed under oath, sworn, and administratively interviewed by CBP officer Alfredo Zermeno (“Officer Zermeno”) in the English language (Sworn statement form I-867A & B). Defendant admitted that his true name is MENELAO LIBU DAVID. Defendant stated that he was born in the Philippines and is a citizen of the Philippines. Defendant stated his true and correct date of birth is XX/XX/1949.

7. Defendant stated that he met a man named “Luis” in 1999 in the Philippines and gave him 150,000 pesos for the Philippine passport and the Visa. Defendant stated that he went to the United States Embassy in Manila, Philippines in 1999 and applied for



a visa and the application was denied. The defendant stated that he again tried and applied for a visa in 2000 and the application was also denied. Defendant admitted that he knew the Philippine passport and the Visa were fraudulent when he got them from "Luis" in 1999. Defendant stated that he used the Visa to enter the United States in Los Angeles, California, in 2000. Defendant stated after he entered the United States using the Visa in 2000 he ended up staying four (4) years in the United States. Defendant stated he returned to the Philippines either in June or July of 2004. Defendant stated that in order to conceal his overstay in the United States, the Defendant acquired a backdated stamp on his expired Philippine passport (Number EE463522) in the Philippines. The backdated stamp showed a Philippine Immigration arrival stamp of 10/27/2000. Defendant stated that upon his return to the Philippines in 2004, he contacted the same person "Luis" and gave him his Philippine passport (Number EE463522). Defendant stated that "Luis" returned the same passport to him with the backdated stamp.

8. Officer Zermeno asked Defendant if he had any fear or concern if he would be returned to the Philippines, and he responded affirmatively. Defendant was then placed in service custody pending an interview with an asylum officer after claiming credible fear of returning to the Philippines. Defendant was picked up by Detention and Removal Officer Ahad Wahab from San Francisco International airport at approximately 20:45 hours the same day, 4/3/2008.

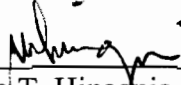
9. On April 10, 2008, Defendant was interviewed by the asylum officer, Steve Goodman, in San Francisco, California. Defendant voluntarily withdrew his claimed fear of being returned to his home country of residence. Defendant informed the asylum officer that he was no longer afraid to go back to his country. The subject signed the Request for Dissolution of Credible Fear Process form during the asylum interview.

## **Conclusion**

10. I respectfully submit that the above presented facts establish probable cause to believe that MENELAO LIBU DAVID did possess and utter a visa knowing it to be counterfeit when he presented a United States tourist/business Visa to Customs and Border Protection officers at San Francisco International Airport in violation of Title 18, United States Code, Section 1546, Fraud and Misuse of Visas, Permits, Other Documents, while in the Northern District of California.

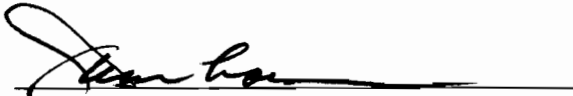
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I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.



Marciano T. Hinagpis, Jr.  
CBP Enforcement Officer  
U.S. Bureau Customs and Border Protection  
U.S. Department of Homeland Security

SUBSCRIBED AND SWORN BEFORE ME  
ON April 15, 2008



The Honorable James Larson  
U.S. Magistrate Judge  
Northern District of California

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**WARRANT FOR ARREST**

**UNITED STATES OF AMERICA**

**v.**

**Menelao Libu DAVID,**

**3 08 70223**

**CASE NUMBER:**

**JL**

**TO:** The United States Marshal and any  
Authorized United States Officer

**YOU ARE HEREBY COMMANDED to arrest Menelao Libu DAVID**

**and bring him or her forthwith to the nearest magistrate judge to answer a(n)**

**( ) Indictment ( ) Information (X) Complaint ( ) Order of the Court ( ) Violation  
Notice ( ) Probation Violation Petition charging him with**

**Fraud and Misuse of Visas, Permits, and Other Documents**

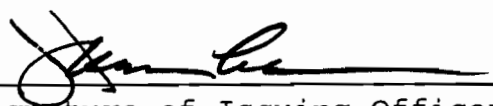
**in violation of Title 18 , United States Code, Section(s) 1546**

**Hon. James Larson**

**Name of Issuing Officer**

**U.S. Magistrate Judge**

**Title of Issuing Officer**

  
**Signature of Issuing Officer**

**April 15, 2008/San Francisco, CA**

**Date and Location**

**Bail fixed at \$ No Bail**

**by James Larson**

**(Name of Judicial Officer)**

**RETURN**

**This warrant was received and executed with the arrest of the above-named  
defendant at \_\_\_\_\_.**

**Date Received**

**Name and Title of Arresting  
Officer**

**Signature of Arresting  
Officer**

**Date of Arrest**